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OFFICE OF PETITIONS

In re Application of :
Snell et al. : DECISION ON PETITION
Application No. 10/005,483 :
Filed: 9 November, 2001 :
Atty Docket No. 56162.000489 :

This is a decision on the renewed petition under 37 CFR 1.47(a) filed on 7 August, 2006, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.¹

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 9 November, 2001, the application was filed as an application for reissue of U.S. Patent No. 5,982,807, naming James Leroy Snell, Carl F. Andren, and Leonard Victor Lucas as joint inventors.

2. On 28 February, 2003, a renewed petition under 37 CFR 1.47(a) filed on 10 February, 2003, was granted with respect to joint inventor James Leroy Snell, permitting joint inventors Carl F. Andren and Leonard Victor Lucas to sign on behalf of non-signing inventor James Leroy Snell.

¹ Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

3. On 29 April, 2005, a final Office action was mailed, setting a three (3) month shortened statutory period for reply.
4. On 29 September, 2005, a Notice of Appeal was filed, accompanied by a two (2) month extension of time, and an amendment after final rejection.
5. On 22 November, 2005, an Advisory Action was mailed, stating that the period for reply expired five (5) months after the mailing of the final Office action.
6. Also on 22 November, 2005, an Interview Summary was mailed, setting a one (1) month period for reply.
7. On 31 March, 2006, an amendment was filed, accompanied by a supplemental declaration naming only inventor Snell.
8. On 17 April, 2006, a petition was filed, stating that previously signing inventor Lucas could not be located to sign the declaration.
9. On 31 June, 2006, the petition was dismissed because petitioners had not provided sufficient proof of diligent efforts to locate the non-signing inventor.
10. On 7 August, 2006, the present renewed petition was filed, along with a supplemental reissue declaration, signed by signing inventor Carl F. Andren. Petitioners again assert that joint inventor Leonard Victor Lucas cannot be located to sign and return the supplemental declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

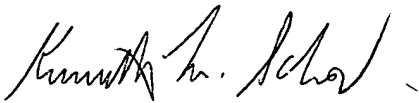
In view of the efforts recounted in the petition to locate and obtain the signature of Leonard Victor Lucas on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Lucas on the supplemental declaration filed on 7 August, 2006.

CONCLUSION

1. The petition is granted.
2. The application is being referred to Technology Center Art Unit 2611 for further processing.

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

A handwritten signature in black ink, appearing to read "Kenneth M. Schor". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy